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5 Counsel for Defendant GARCIA-GRACIANO

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7
8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA
10

11 UNITED STATES OF AMERICA,)

12 Plaintiff,)

13 v.)

14)
15 ENRIQUE GARCIA-GRACIANO,)

16 Defendant.)
17

No. CR 07-00790 CW

STIPULATION AND [PROPOSED]
ORDER CONTINUING MOTIONS
FILING DATES

18 IT IS HEREBY STIPULATED, by and between the parties to this action, that the motions
19 filing dates in this case may be continued as follows: defendant's motion to dismiss, currently due on
20 February 13, 2008, may be continued to March 5, 2008; the government's opposition, currently due
21 of February 20, 2008, may be continued to March 12, 2008; defendant's reply currently due on
22 February 27, 2008, may be continued to March 26, 2008. The hearing date for the motion, currently
23 set for Wednesday, March 5, 2008, at 2:00 p.m. shall remain on calendar for status or disposition.

24 The background is that Mr. Garcia-Graciano intends to file a motion to dismiss the indictment
25 and allege due process violations at the time of his prior deportation hearing. Mr. Garcia-Graciano
26

1 has retained an immigration expert, Angela Bean to prepare a declaration in support of the motion.
 2 However, Ms. Bean needs additional time to complete her review and prepare the declaration. In
 3 addition, defense counsel will be out of the country and unavailable from February 14, 2008 through
 4 February 24, 2008. Continuing the motions filing date to March 5, 2008 will allow defense counsel
 5 to speak with the immigration expert and the government upon return and possibly agree upon a
 6 disposition in lieu of the motion being filed. Therefore, the parties are asking that the March 5, 2008
 7 date remain on the Court's calendar for status or disposition. If there is no disposition, the motion to
 8 dismiss will be filed on that date.
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10 The Court already has excluded time from the last appearance on January 30, 2008 through
 11 March 5, 2008 in accordance with the provisions of the Speedy Trial Act, 18 U.S.C. §§
 12 3161(h)(8)(A) and (B)(iv) for continuity of counsel and adequate preparation of counsel.
 13

14 /S/
 15 DATED: 2/12/08
 16 _____
 17 JOYCE LEAVITT
 18 Assistant Federal Public Defender

17 /S/
 18 DATED: 2/12/08
 19 _____
 20 CHINHAYI COLEMAN
 21 Assistant United States Attorney

22 SIGNATURE ATTESTATION

23 I hereby attest that I have on file all holograph signatures for any signatures indicated by
 24 a "conformed" signature (/S/) within this e-filed document.
 25
 26

ORDER

GOOD CAUSE APPEARING, IT IS HEREBY ORDERED that the defendant's motion to dismiss, currently due on February 13, 2008, may be continued to March 5, 2008; the government's opposition, currently due of February 20, 2008, may be continued to March 12, 2008; defendant's reply currently due on February 27, 2008, may be continued to March 26, 2008. The hearing date for the motion, currently set for Wednesday, March 5, 2008, at 2:00 p.m. shall remain on calendar for status or disposition.

IT IS FURTHER ORDERED that the time through March 5, 2008 will continue to be excluded in accordance with the provisions of the Speedy Trial Act, 18 U.S.C. §§ 3161(h)(8)(A) and (B)(iv) for continuity of counsel and adequate preparation of counsel taking into account due diligence.

SO ORDERED.

DATED:

HONORABLE CLAUDIA WILKEN
United States District Judge